

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

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|-------------------------------|---|-------------------------------|
| IN RE: |) | |
| SHAWN LEE ANDERSON |) | CASE NO.: 22-04133-RSM |
| 4662 FORSMAN COURT |) | CHAPTER 13 |
| MURFREESBORO, TN 37128 |) | JUDGE MASHBURN |
| SSN/ITIN: XXX-XX-8902 |) | |
| Debtor. | | |

THE DEADLINE FOR FILING A TIMELY RESPONSE IS: MARCH 26, 2024
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: APRIL 3, 2024
AT 9:00 AM IN JOINT HEARING COURTROOM, SECOND FLOOR, CUSTOMS HOUSE, 701
BROADWAY, NASHVILLE, TN 37203

NOTICE OF MOTION MODIFY CHAPTER 13 PLAN TO SURRENDER COLLATERAL

The Debtor has asked the court for the following relief: to modify the Chapter 13 Plan to surrender the 2022 Indian Motorcycles Chief financed through Performance Finance.

YOUR RIGHTS MAY BE AFFECTED. If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. Please note: the Bankruptcy Court for the Middle District of Tennessee requires electronic filing. Any response or objection you wish to file must be submitted electronically. To file electronically, you or your attorney must go to the court website and follow the instructions at:
<<https://ecf.tnmb.uscourts.gov>><<https://ecf.tnmb.uscourts.gov>>.

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: 701 Broadway, 1st Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. Your response must state the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by viewing the case on the court's website at <<https://ecf.tnmb.uscourts.gov>>.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter the attached order granting that relief.

Date: 3/5/2024

Signature: /s/ Alex Koval
ALEX KOVAL, #029541
Clark & Washington, PC
Attorneys for Debtor(s)
1321 Murfreesboro Pike, Ste. 320
Nashville, TN 37217
615-251-9782; Fax: 615-251-8919
Email: cwnashville@cw13.com

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| IN RE: |) | |
| SHAWN LEE ANDERSON |) | CASE NO.: 22-04133-RSM |
| 4662 FORSMAN COURT |) | CHAPTER 13 |
| MURFREESBORO, TN 37128 |) | JUDGE MASHBURN |
| SSN/ITIN: XXX-XX-8902 |) | |
| Debtor. | | |

MOTION TO MODIFY CHAPTER 13 PLAN TO SURRENDER COLLATERAL

Comes now the Debtor, by and through Counsel, and would respectfully show this Honorable Court the following:

1. The Debtor filed for relief under Chapter 13 of the Bankruptcy Code on December 28, 2022.
2. The Debtor's Chapter 13 plan was confirmed on March 15, 2023 providing for a secured claim of Performance Finance ("Performance") in the amount of \$17,479.53 with the interest rate of 7.75% and a monthly payment of \$353.00 secured with the Debtor's 2022 Indian Motorcycles Chief (the "Vehicle").
3. The vehicle is no longer required by the Debtor for an effective reorganization, therefore, the Debtor has elected to surrender the vehicle to Performance and grant Performance relief from the automatic stay of 11 U.S.C. § 362 to collect and dispose of the vehicle.
4. Accordingly, the Debtor seeks to modify the Confirmation Order of March 15, 2023 to temporarily suspend the monthly payments required pursuant to 11 U.S.C. 1325 (a)(5) on claims associated with the vehicle until Performance files an amended Proof of Claim, after disposing of the vehicle and reducing said claim by the amount of the net proceeds received from the sale. The Debtor further moves to limit the time in which Performance can file an Amended Claim to ninety (90) days after an order is entered granting this motion.
5. Should an Amended Claim not be timely filed, the claim will be deemed to have been satisfied in full by the surrender of the collateral and no other payments will be paid on the claim.
6. Debtor proposes to grant immediate relief from the stay in favor of Performance to allow them to promptly collect the surrendered collateral. Should an amended claim be timely filed, said claim will be paid in full with 0% interest over the remaining life of the Debtor's Chapter 13 plan. NOTICE IS HEREBY GIVEN THAT PERFORMANCE MUST EITHER REJECT THE MODIFIED PLAN OR OBJECT TO THE MOTION TO MODIFY IN WRITING ON OR BEFORE THE RESPONSE DEADLINE. IF BYRIDER DOES NOT AFFIRMATIVELY REJECT OR OBJECT, ITS SILENCE WILL BE DEEMED AS ACCEPTANCE OF THE PROPOSED MODIFIED PLAN.

7. The Debtor further seeks to reduce the dividend to general unsecured creditors from 100% to 20%.

8. As the result of such modification, the Debtor's Chapter 13 plan base shall be reduced to \$380.00 bi-weekly and the plan base shall be set at \$74,855.00. The plan shall complete within 60 months from confirmation. There shall be no other changes to the terms of the confirmation order.

WHEREFORE, DEBTORS PRAYS as follows:

That Debtor's Chapter 13 plan be modified to allow for the surrender of the 2022 Indian Motorcycles Chief to Performance and reduce dividend to general unsecured creditors.

Date: 3/5/24

/s/ Alex Koval
ALEX KOVAL, #029541
Clark & Washington, PC
Attorneys for Debtor(s)
1321 Murfreesboro Pike Suite 320
Nashville, TN 37217
615-251-9782; Fax: 615-251-8919
Email: cwnashville@cw13.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this the 5th day of March, 2024, a true and correct copy of the foregoing has been served in the following manner:

Email by Electronic Case Noticing to:

Timothy Niarhos, Assistant U.S. Trustee
Henry E. Hildebrand, III, Chapter 13 Trustee

By U.S. Postal Service, postage prepaid to:

The Debtor(s) at the above referenced address
All creditors listed in the mailing matrix.

By Certified Mail to:

Total Mailings by U.S. Postal Service: 29

Signature: /s/ Alex Koval
ALEX KOVAL, #029541

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| IN RE: SHAWN LEE ANDERSON 4662 FORSMAN COURT MURFREESBORO, TN 37128 SSN/ITIN: XXX-XX-8902 Debtor. |)))))) | CASE NO.: 22-04133-RSM CHAPTER 13 JUDGE MASHBURN |
|--|----------------------------|---|

**(PROPOSED) ORDER GRANTING MOTION TO MODIFY CHAPTER 13 PLAN TO
SURRENDER COLLATERAL**

Upon consideration of the Motion to Modify Chapter 13 Plan to Surrender Collateral filed herein on the 5th day of March, 2024; and the twenty-one (21) days having passed within which to file an objection; the Debtor's Motion to Modify Chapter 13 Plan is GRANTED. The Debtor's Chapter 13 Plan shall be modified as follows:

1. The Debtor's Chapter 13 plan shall be modified to allow them to surrender the 2022 Indian Chief Motorcycle to Performance Finance.
2. The Confirmation Order of March 15, 2023 shall be modified to temporarily suspend the monthly payments required pursuant to 11 U.S.C. 1325 (a)(5) on claims associated with the vehicle until Performance files an amended Proof of Claim, after disposing of the vehicle and reducing said claim by the amount of the net proceeds received from the sale. The time in which Performance can file an Amended Claim shall be limited to ninety (90) days after an order is entered granting this motion.
3. Should an Amended Claim not be timely filed, the claim will be deemed to have been satisfied in full by the surrender of the collateral and no other payments will be paid on the claim.
4. Performance shall be granted relief from stay to allow them to promptly collect the surrendered collateral. Should an amended claim be timely filed, said claim will be paid in full with 0% interest over the remaining life of the Debtor's Chapter 13 plan.
5. The Debtor's Chapter 13 plan shall further be modified to reduce the dividend to general unsecured creditors from 100% to 20%.
6. As the result of such modification, the Debtor's Chapter 13 plan base shall be reduced to \$380.00 bi-weekly and the plan base shall be set at \$74,855.00. The plan shall complete within 60 months from confirmation. There shall be no other changes to the terms of the confirmation order.

ORDERED, ADJUDGED AND DECREED that the Motion to Modify is granted as set forth above.

**THIS ORDER WAS SIGNED AND ENTERED ELECTRONICALLY AS INDICATED AT
THE TOP OF THIS PAGE.**

APPROVED FOR ENTRY:

/s/ Alex Koval

ALEX KOVAL, #029541

Clark & Washington, PC

Attorneys for Debtor(s)

1321 Murfreesboro Pike, Ste. 320

Nashville, TN 37228

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